

# HOUSE BILL No. 1292

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-4-3.

**Synopsis:** Annexation. Provides that when a municipality initiates an annexation, the municipality must file a petition with the court containing the signatures of at least 51% of the landowners in the territory proposed to be annexed.

**Effective:** Upon passage.

**Orentlicher**

January 16, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1292

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-4-3-3.1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This  
3 section does not apply to an annexation under section 4(a)(2), 4(a)(3),  
4 4(b), 4(h), or 4.1 of this chapter.  
5 (b) A municipality shall develop and adopt a written fiscal plan and  
6 establish a definite policy by resolution of the legislative body that  
7 meets the requirements set forth in section 13 of this chapter.  
8 (c) Except as provided in subsection (d), the municipality shall  
9 establish and adopt the written fiscal plan before mailing the  
10 notification to landowners in the territory proposed to be annexed  
11 under section 2.2 of this chapter.  
12 (d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter,  
13 the municipality shall establish and adopt the written fiscal plan before  
14 adopting the annexation ordinance.  
15 SECTION 2. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE  
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
17 UPON PASSAGE]: **Sec. 5.5. (a) This section does not apply to an**

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annexation under section 5 or 5.1(i) of this chapter.

(b) After a municipality adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (c), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by at least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(c) The petition circulated by the municipality must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) A landowner may withdraw the landowner's signature from the petition not more than ten (10) days after the municipality adopts the annexation ordinance by providing written notice to the office of the clerk of the municipality.

(e) The municipality must file the petition with the circuit or superior court of the county where the municipality is located within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter. The petition must be accompanied by a copy of the ordinance.

(f) On receipt of the petition, the court shall determine whether the petition has the necessary signatures. In determining the total number of landowners of the territory proposed to be annexed and whether signers of the petition are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(g) If the court determines that the petition is sufficient, and a remonstrance or appeal has not been filed under section 11 or 15.5 of this chapter, the court shall issue an order that the annexation may take place. If the court determines that the petition is not sufficient:

(1) the court shall issue an order that the annexation may not take place and that the annexation ordinance adopted by the municipality is void; and

(2) the municipality may not make further attempts to annex the territory or any part of the territory until one (1) year after the later of:

(A) the date of the judgment of the circuit or superior

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1                    **court; or**  
 2                    **(B) the date of the final disposition of all appeals to a**  
 3                    **higher court;**  
 4                    **unless the annexation is petitioned for under section 5 or 5.1 of this**  
 5                    **chapter.**

6                    SECTION 3. IC 36-4-3-11, AS AMENDED BY P.L.111-2005,  
 7                    SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8                    UPON PASSAGE]: Sec. 11. (a) Except as provided in ~~section 5.1(i) of~~  
 9                    ~~this chapter and~~ subsections (d) and (e), whenever territory is annexed  
 10                    by a municipality under this chapter, the annexation may be appealed  
 11                    by filing with the circuit or superior court of a county in which the  
 12                    annexed territory is located a written remonstrance signed by:

13                    (1) at least sixty-five percent (65%) of the owners of land in the  
 14                    annexed territory; or

15                    (2) the owners of more than seventy-five percent (75%) in  
 16                    assessed valuation of the land in the annexed territory.

17                    The remonstrance must be filed within ninety (90) days after the  
 18                    publication of the annexation ordinance under section 7 of this chapter,  
 19                    must be accompanied by a copy of that ordinance, and must state the  
 20                    reason why the annexation should not take place.

21                    (b) On receipt of the remonstrance, the court shall determine  
 22                    whether the remonstrance has the necessary signatures. In determining  
 23                    the total number of landowners of the annexed territory and whether  
 24                    signers of the remonstrance are landowners, the names appearing on  
 25                    the tax duplicate for that territory constitute prima facie evidence of  
 26                    ownership. Only one (1) person having an interest in each single  
 27                    property, as evidenced by the tax duplicate, is considered a landowner  
 28                    for purposes of this section.

29                    (c) If the court determines that the remonstrance is sufficient, it shall  
 30                    fix a time, within sixty (60) days of its determination, for a hearing on  
 31                    the remonstrance. Notice of the proceedings, in the form of a summons,  
 32                    shall be served on the annexing municipality. The municipality is the  
 33                    defendant in the cause and shall appear and answer.

34                    (d) If an annexation is initiated by property owners under section 5.1  
 35                    of this chapter and all property owners within the area to be annexed  
 36                    petition the municipality to be annexed, a remonstrance to the  
 37                    annexation may not be filed under this section.

38                    (e) This subsection applies if:

39                    (1) the territory to be annexed consists of not more than one  
 40                    hundred (100) parcels; and

41                    (2) eighty percent (80%) of the boundary of the territory proposed  
 42                    to be annexed is contiguous to the municipality.

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1 An annexation may be appealed by filing with the circuit or superior  
 2 court of a county in which the annexed territory is located a written  
 3 remonstrance signed by at least seventy-five percent (75%) of the  
 4 owners of land in the annexed territory as determined under subsection  
 5 (b).

6 SECTION 4. IC 36-4-3-22 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) The clerk  
 8 of the municipality shall do the following:

9 (1) File each annexation ordinance against which a remonstrance  
 10 or an appeal has not been filed during the period permitted under  
 11 this chapter or the certified copy of a judgment ordering an  
 12 annexation to take place with each of the following:

13 (A) The county auditor of each county in which the annexed  
 14 territory is located.

15 (B) The circuit court clerk of each county in which the  
 16 annexed territory is located.

17 (C) If a board of registration exists, the registration board of  
 18 each county in which the annexed territory is located.

19 (D) The office of the secretary of state.

20 (E) The office of census data established by IC 2-5-1.1-12.2.

21 (2) Record each annexation ordinance adopted under this chapter  
 22 in the office of the county recorder of each county in which the  
 23 annexed territory is located.

24 (b) The copy must be filed and recorded no later than ninety (90)  
 25 days after:

26 (1) the expiration of the period permitted for a remonstrance or  
 27 appeal; or

28 (2) the delivery of a certified order under section **5.5 or** 15 of this  
 29 chapter.

30 (c) Failure to record the annexation ordinance as provided in  
 31 subsection (a)(2) does not invalidate the ordinance.

32 (d) The county auditor shall forward a copy of any annexation  
 33 ordinance filed under this section to the following:

34 (1) The county highway department of each county in which the  
 35 lots or lands affected are located.

36 (2) The county surveyor of each county in which the lots or lands  
 37 affected are located.

38 (3) Each plan commission, if any, that lost or gained jurisdiction  
 39 over the annexed territory.

40 (4) The sheriff of each county in which the lots or lands affected  
 41 are located.

42 (5) The township trustee of each township that lost or gained

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jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

**SECTION 5. [EFFECTIVE UPON PASSAGE] IC 36-4-3-3.1, IC 36-4-3-11, and IC 36-4-3-22, all as amended by this act, and IC 36-4-3-5.5, as added by this act, apply to an annexation for which an annexation ordinance is adopted after May 15, 2007.**

**SECTION 6. An emergency is declared for this act.**

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